

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JEANNINE J. LANE, JJJ, INC., a Nebraska  
Corporation; and JAL, INC., a Nebraska  
Corporation;

Defendants.

**8:19CV415**

**ORDER**

This matter is before the Court on Defendants' Motion to Change Place of Trial. ([Filing No. 4.](#)) For the reasons set forth below, the motion will be granted, in part.

**DISCUSSION**

In this action, Plaintiff alleges that Defendants submitted false claims for crop losses on property insured under crop insurance policies in Nebraska in 2012 and 2013, and in Iowa in 2012. The real estate at issue is in Pottawattamie County, Iowa and the counties of Keith and Garden in Nebraska. Plaintiff designated Omaha, Nebraska as the place of trial. Defendants request that trial be moved to North Platte, Nebraska.

**DISCUSSION**

When deciding the place of trial, "a judge considers the convenience of the litigants, witnesses, and attorneys." [Ury v. Union Pacific Railroad Company, No. 8:10CV116, 2010 WL 1957272, \\*2 \(D. Neb. May 14, 2010\)](#) (quoting NECivR 40.1(b)(1)). The party seeking to change

the place of trial bears the burden of establishing that the transfer should be granted. *Id.* The forum should not be disturbed “unless the movant makes a clear showing that the balance of interests weighs in favor of the movant.” *Id.* “A transfer should not be granted if the effect is to merely shift the inconvenience from one party to the other.” *Id.*

Defendants request that the place of trial be moved to North Platte, Nebraska or, in the alternative, Lincoln, Nebraska. Defendants maintain that most of the real estate at issue is located substantially closer to North Platte and that witnesses are primarily located in Garden, Keith, Perkins, and Lincoln counties in Nebraska. Defendants represent that the city of Ogallala, Nebraska, the county seat of Keith County, is forty-six miles from North Platte. Grant, Nebraska, the county seat of Perkins County, is seventy-two miles from North Platte. Oshkosh, Nebraska, the county seat of Garden County, is ninety-eight miles from North Platte. Defendants assert that these towns are each over three-hundred miles from Omaha.

Plaintiff argues that it would be prejudiced if the place of trial is changed to North Platte. Plaintiff contends that if trial is conducted in North Platte, a subpoena issued by this Court could not command at least three material, nonparty witnesses to appear in person at trial. Plaintiff maintains that these witnesses, who work or reside around Pottawattamie County, Iowa, are necessary to provide material testimony at trial. Plaintiff claims that Pottawattamie County is approximately thirty-six miles from the Court’s Omaha courthouse, eighty-nine miles from the Court’s courthouse in Lincoln, Nebraska, and over three-hundred miles from the Court’s courthouse in North Platte. Plaintiff does not, however, oppose Defendants’ alternative request to move the place of trial to Lincoln.

Having considered the convenience of the litigants, witnesses, and attorneys, the Court finds that the motion should be granted, in part, and that the place of trial should be changed to Lincoln, Nebraska. Transferring the trial of this action to Lincoln will not prejudice Plaintiff, as key witnesses will still be within the subpoena power of the Court. *See Fed. R. Civ. P. 45.* Also, moving the place of trial to Lincoln will decrease the travel distance for witnesses located in western Nebraska. As stated previously, Plaintiff does not oppose re-locating trial to Lincoln.

Accordingly,

**IT IS ORDERED** that Defendants' Motion to Change Place of Trial ([Filing No. 4](#)) is granted, in part. The Clerk of Court is directed to modify the docket sheet to reflect that the trial will occur in Lincoln, Nebraska.

Dated this 23<sup>rd</sup> day of January, 2020.

BY THE COURT:

s/ Susan M. Bazis  
United States Magistrate Judge